

THE STATE ELECTRICITY OMBUDSMAN

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REVIEW PETITION NO. P/063/2016

(Present: A.S.Dasappan)

Dated: 11th January 2018

Review Appellant : Swami Chaithanya Jnana Thapaswi
General Secretary, Santhigiri Ashram,
Santhigiri, Thiruvananthapuram

Review Respondent : The Assistant Executive Engineer,
KSE Board Limited,
Electrical Sub Division, Koduvayur,
Palakkad.

ORDER

The review appellant is running an educational institution in the name of Santhigiri Medical College, Palakkad under Electrical Section Thathamangalam and a three phase service connection with consumer No.10623 (new consumer no.23794) is effected and the tariff assigned was LT VI F. The connected load of the premises is 68000 Watts. As per the schedule of tariff and terms and conditions for retail supply by KSEB, self financing educational institutions including hostels come under LT VIIA tariff with effect from 01-12-2007. Before 01.12.2007, all self-financing educational institutions were billed under LT VI A tariff. The respondent had billed the appellant mistakenly under LTVIA tariff during the period from 12/2007 to 10/2008. The review respondent had taken action to recoup the difference of tariff from VIA to VIIA and the appellant was issued a short assessment bill for Rs.2,22,416/- on 22-11-2008. Against this, the appellant filed WP(C) No. 36758/2008 before the Honourable High Court of Kerala and the Hon'ble High Court as per order dated 15th December 2008 permitted him to pay the electricity charges under LT VI A tariff for a period of one month from the date of the order. On 07.08.2009, another short assessment bills for an amount of Rs. 1,09,042/- for the period from 11/2008 to 4/2009 and for an amount of Rs.38.710/- for the period 11/2009 to 12/2009 was issued to the appellant under LT VII A tariff and the same are pending for payment. Aggrieved by this, the appellant approached with a petition before CGRF, Kozhikode. The petition was dismissed by the CGRF vide order in OP No.112/2016-17 dated 06-05-2017.

Aggrieved by the order passed by the CGRF the review appellant filed appeal petition before this Authority which was disposed of with the following orders. " Exactly following the decision of the Hon High Court stated above, the appellant shall pay the monthly bills under LT VII-A tariff from the date of detection of the wrong tariff fixed to the party i.e. from the month of 11/2008 onwards and short assessment bill dated 22-11-2008 raised for Rs. 2,22,416/- for the arrears of the period prior to that month (11/2008)and the interest of Rs.4,77,930/- shall be kept pending. But the same will be subject to the result of the judgment in the batch of SLP's pending before the Hon: Supreme Court on the issue of electricity tariff applicable to Self Financing Educational Institutions and the respondent shall act as per the verdict, on its pronouncement. (2). It is clarified that the disputed short assessment bill dated 10-08-2009 for an amount of Rs. 1,09,042/- for the period from 11/2008 to 4/2009 and for an amount of Rs. 38,710/- for the period from 11/2009 to 12/2009, issued to the appellant shall be payable by the appellant within a period of 30 days from the date of receipt of this order".

Still aggrieved by the decision, the review appellant has submitted this review petition with a plea to review the orders and to allow the reliefs sought for.

Hearing of the case was conducted on 14-12-2017 in my chamber at Edappally, Kochi. Advocate Sri K.C.Santhosh kumar and advocate Smt. Sudha K.S. represented for the review appellants side, and Sri S.Nagarajan, Assistant Executive Engineer, Electrical Sub Division, Koduvayur, Palakkad and Sri. Vipin N. Nodal Officer, KSEBL, Palakkad appeared for the review respondents and they argued the case on the above mentioned lines. On perusing the review petition, the statement of facts filed by the review respondent, the arguments of both sides in hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

This Authority has considered all the arguments of the review appellant earlier while disposing the original Appeal Petition. The appellant has raised the same arguments cited in his original appeal Petition, which was nothing but the same apprehension about the status of the consumer to claim tariff rate of LT VI A for an institution which continues to be a charitable institution even after 12/2007. The arguments raised cannot be considered now for a review, as it was considered, decided and order issued accordingly earlier. It is clearly analysed in the order of the appeal petition No.63/2017 dated 25-09-2017 as follows; "The appellant's institution in this case is a Ayurveda Medical College which comes under the purview of Self Financing Educational institution and the KSERC, in its tariff order, has specifically classified such institutions under LT VIIA tariff with effect from 12/2007.

On a perusal of the Tariff order of 10/2002, which was in force from 10/2002 to 11/2007, it is noted that an Educational Institution comes under

LT VI A. Also in the tariff order of 10/2002, there was only one category of “Govt or Private Educational institutions” under LTVI A tariff and there was no case of a Self Financing Educational Institution (SFEI) at that time. But in the tariff order of 12/2007, a new category of SFEI was brought in, under LTVIIA tariff, after retaining “Govt and Aided private Educational Institutions” under LTVIA tariff itself.

The tariff of LT VIIA specifically for SFEI was introduced in the “Tariff order issued in 11/2007”, the claim of the appellant that LT VIA was issued to him before 12/2007, considering all aspects is found to be correct during that time. But when the Rules and Regulations are changed as per Law established it has to be abided.

In this particular case, the new tariff classification was introduced by Hon: KSERC, with effect from 12/2007 which has to be implemented by KSEB. When energy is used for multiple purposes, from a single electric connection, the applicable tariff for the whole unit shall be the highest of the individual tariff, till it is segregated and independent connection is taken for each unit. Here, as per the Tariff Order issued in 11/2007, the applicable tariff for SFEI, it is LTVIIA-commercial. Since it is established that the Appellant is a SFEI, the applicable tariff shall be LTVIIA with effect from 12/2007.

The tariff is assigned according to the purpose or activity being done on the premises of the consumer in relation to the Tariff order issued from time to time by the Competent Authority.”

No glaring mistake or apparent errors on the face of record, on the order dated 25-09-2017 of this Authority, in Appeal Petition No. P/63/2017, were pointed out by the appellant here. Moreover, there was no discovery of a new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him, before this Forum earlier. Hence, there is no cause or sufficient reason established by the Review appellant, for the Review of the order already issued.

In the review petition nothing is pointed out which escaped the notice of this Authority while disposing the appeal petition. The review jurisdiction is limited to rectify a mistake or an error which is apparent on the face of records and it cannot be used as appellate jurisdiction. If the review appellant is aggrieved by the order of this Authority, it is free for him to challenge that order before the appropriate upper authority. In this background, this Authority didn't find any reason to intervene the order already issued.

Decision

In view of the above discussions, I hold that review petition is not maintainable as there is no cause or sufficient reason established by the review appellant, for the review of the order already issued. Hence the review petition is dismissed and disposed of accordingly.

ELECTRICITY OMBUDSMAN

Review Petition P/063/2017/ _____ /Dated: _____

Delivered to:

1. Swami Chaithanya Jnana Thapaswi, General Secretary, Santhigiri Ashram, Santhigiri, Thiruvananthapuram
2. The Executive Engineer, KSE Board Limited, Electrical Sub Division, Koduvayur, Palakkad

Copy to

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF, Vydhyuthibhavanam, KSEB Ltd, Gandhi Road, Kozhikode